

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

J.B. and L.P., by and through their next friend,
Mary Troupe; L.M., by and through his next friend,
Trasie Howard; and L.S., by and through his next
friend, Sheila Davis,

Plaintiffs,

v.

GOVERNOR HALEY BARBOUR, in his official
capacity; ROBERT L. ROBINSON, in his official
capacity as Director of the Mississippi Division of
Medicaid; PATRICIA AINSWORTH, in her
official capacity as chair of the Mississippi Board
of Mental Health; and EDWIN C. LEGRAND, in
his official capacity as Executive Director of the
Mississippi Department of Mental Health,

Defendants.

Case No. 3:10-cv-153 HTW-LRA

OLIVIA Y. PLAINTIFFS' MOTION TO INTERVENE

The Proposed Interveners (hereinafter “the *Olivia Y.* Plaintiffs”) are members of the class of all foster children in the legal and/or physical custody of the Mississippi Division of Family and Children’s Services, certified in the *Olivia Y. v. Barbour* lawsuit, No. 3:04CV251LN (S.D. Miss.), and simultaneously members of the putative class in the instant lawsuit. The *Olivia Y.* suit, brought in 2004, challenged virtually every aspect of the care and treatment provided to foster children in Mississippi, including the provision of mental health services. In 2008, District Court Judge Lee of the Southern District of Mississippi approved and entered a wide-ranging settlement agreement reached by the parties to ensure the safety and well-being of Mississippi’s foster children. Under the *Olivia Y.* Settlement Agreement and Reform Plan, entered January, 4,

2008, the *Olivia Y.* Plaintiffs secured relief regarding the provision of mental health services to foster children and which requires that foster children be placed in the least restrictive environment. The relief obtained in the Settlement Agreement and Reform Plan has the potential to overlap or conflict with relief that may be ordered or agreed upon in the instant action. Pursuant to Federal Rule of Civil Procedure 24, the *Olivia Y.* Plaintiffs seek to intervene in the above-captioned lawsuit to request that they be designated a subclass of any class certified in the instant action for the sole and limited purpose of protecting their rights under the *Olivia Y.* Settlement Agreement and Reform Plan. As set forth in their Memorandum of Law in Support of the *Olivia Y.* Plaintiffs' Motion to Intervene, the *Olivia Y.* Plaintiffs meet the requirements for intervention, both intervention of right pursuant to Federal Rule of Civil Procedure 24(a)(2) and permissive intervention pursuant to Federal Rule of Civil Procedure 24(b). Accordingly, the *Olivia Y.* Plaintiffs respectfully request that the Court allow them to intervene in the above captioned lawsuit for the limited purpose of protecting their rights under the *Olivia Y.* Settlement Agreement and Reform Plan. A motion for an *Olivia Y.* subclass will be forthcoming should the Court grant this request for intervention.

Respectfully submitted, this 28th day of April, 2010.

/s/ Shirim Nothenberg

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CERTIFICATE OF SERVICE

I hereby certify that on April 28, 2010, I electronically filed the foregoing *Olivia Y. Plaintiffs' Motion to Intervene* with the Court using the ECF system, which sent notification of such filing to the following:

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